IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.4583 OF 2005

Smt.Savitribai Shantaram Gade : Petitioner

(Orig. Appellant)

V/s.

The State of Maharashtra & Ors. : Respondents

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Ms N. Thatte for the petitioner.

Mr.A.H.Palekar, Asstt. Govt. Pleader for the respondent nos.1 to 4.

Mr.S.M.Gorwadkar for the respondent nos.6 to 10.

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CORAM : S.A. BOBDE, J.

July 22, 2005.

P.C.:

1. Rule, returnable forthwith.

The learned counsel for the respective respondents waive service of rule.

Heard by consent.

2. The petitioner challenges the order removing her from the post of Sarpanch of the Gram Panchayat, Thakursai, by a no-confidence motion passed against her on 23.2.2005. The motion of no-confidence has been passed by a majority

of 5 to 2. Undisputedly, the petitioner then moved the Collector against the motion of no-confidence. The Collector having rejected the petitioner's appeal on 19.3.2005, the petitioner moved the Commissioner who also rejected the petitioner's appeal by order dated 16.6.2005. Firstly, according to the petitioner, she was not afforded an opportunity to speak as contemplated by section 35 of the Bombay Village Panchayats Act. There is no contemporaneous evidence of the denial of such an opportunity. The Collector has categorically found:-

> "Opportunity was given to all to represent themselves."

3. The second contention is that the learned Commissioner passed the order beyond the time stipulated by section 35(3C). Section 35(3C) reads as follows:-

> "(3C) Any person aggrieved by the decision of the Collector may, within seven days from the date of receipt of such decision, appeal to the Commissioner who shall decide the appeal, as far as possible, within fifteen days from the date on which the appeal is received by him, and any such

decision shall be final."

The Commissioner appears to have decided within a period of two months instead of 15 days as contemplated by wub-section (3C). This does not vitiate the order since the sub-section says that the Commissioner shall decide "as far as possible, within 15 days".

4. The petition is, therefore, dismissed. The rule stands discharged.

S.A. BOBDE, J.